IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 13756 of 2004

Between:

Sri S.V.V.Rajeswara Rao, S/o.Sambaiah Naidu,
Kothapeta, Umar Veedhi, Vizianagaram Dist.

..... PETITIONER
AND

1 Govt. of A.P.,rep.by its Prl.Secretary, Municipal & Admn. Dept.,Secretariat, Hyderabad.
2 The Chairman-cum-District Collector, Vizianagaram Town Development Committee,
Collectorate, Vizianagaram.
3 The Convenor-cum-Municipal Commissioner, Town Development Committee, Vizianagaram Municipality, Vizianagaram.
4 The Vice Chairman, Vizianagaram Town Development Committee, Visakhapatnam Urban Development Authority, Visakhapatnam.
5 The Executive Engineer, Vizianagaram Town Development Committee, Visakhapatnam Urban Development Authority,
Visakhapatnam.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction declaring the action of the Respondent Authorities in closing the big drainage, which is connected to the pedda Tank, as arbitrary, illegal, null and void and is against the principles of natural justice and norms of the public policy and further directing the Respondent Authorities to open the drainage channels, which linked to the pedda tank for free flow of drainage water and to call for records of the funds utilised for the water treatment plant at pedda Tank at Vizianagaram Town by the Respondent Authorities spending Rs.2.04 crores and by directing the 1st respondent to constitute

a disciplinary Committee to conduct enquiry into the financial irregularities by the 2nd to 5th respondent authorities which has not been any utility till date.

Counsel for the Petitioner:MR.VENKATESWARA RAO GUDAPATI

Counsel for the Respondent No.1: GP FOR G.A.D.

Counsel for the Respondents 2 and 3: Mr. Dammalapati Srinivas

Counsel for the Respondents 4 and 5: Ms. Sumalini Reddy

The Court made the following Oral Order: (per Sri Devinder Gupta,CJ)

Writ petition was filed on 3rd August, 2004 by the Municipal Councillor of Vizianagaram Municipality purporting to be in public interest. Petitioner made grievance that the treatment plant established at Pedda Tank at Vizianagaram Town by the respondent authorities by laying bunds and creating small pits was not technically sound and by virtue of digging pits for Pedda tank's water, is nowhere to be found in the entire country and the entire public funds have been wasted and that more than Rs.2.00 crores have been spent without taking precautions for free flow of the rain water of the town. Thus the action of the respondent authorities in creating and spending public money, according to the petitioner, is nothing but wasting the public money for establishment of Pedda Tank which is not in use and is not serving any purpose.

Be it stated that before filing of the writ petition, no such representation was ever made by the petitioner before the authorities. We have called upon the respondents to file affidavits in reply.

Mr. D. John Samson, Commissioner of the Vizianagaram Municipality filed his affidavit, besides, I. Rajat Kumar, District Collector of Vizianagaram, on behalf of respondents 1and 2. Mr. G. Sharath Babu, Executive Engineer of Visakhapatnam Urban Development Authority had also filed affidavit in reply.

As per the affidavit of the District Collector, Vizianagaram, Pedda Tank at Vizianagaram is a major water body situated in the heart of the town over a sprawling 162 acres and due to the topological conditions, the main sullage/sewage of Vizianagaram town fall into the Pedda Tank leading to a mix of rainwater and sullage creating environmental problem and it has become a breeding ground for mosquitoes. The effluent of the tank is used for irrigation purposes. Further, with the increase in the population, the problem has aggravated leading to conversion of the

tank into a cesspool and intensive growth of mosquitoes. It is stated that VUDA, the 4th respondent has taken up a project to treat this water body and taking into account the local conditions and maintenance issues, a bio-friendly treatment project was proposed. The works are taken up and for achieving cost efficiency, a major portion of the excavated earth in the tank bed is also being used for bunds to an extent of 50%. The work in question had commenced in September, 2003 and will be completed by the end of April, 2004.

Similarly, the Executive Engineer of Visakhapatnam Urban Development Authority in his affidavit in reply stated that the tank is spread out in an extent of 162 acres and eight sewerage treatment process tanks shave been constructed in an extent of 20 acres approximately. These 8 STP tanks have the capacity for treatment of five million litres per day. The pipe connected from the main drain to the treatment plant is protected by a screen with an over flow arrangement. The main approach of the drain is blocked for the last ten years by encroachments of petty shops and market area within the municipal limits. It is stated that due to the encroachments, the drain entry is chocked as it is filled up with silt (black soil). The STP tanks are 30 Mtrs., away from the drain point and due to the screen management, the sewerage water goes into the STP tanks and the solids like plastics, coconut shells etc., which get collected at the screen are to be regularly cleared by the 3rd respondent.

The Commissioner, Viziangaram Municipality in his affidavit stated that the system work is completed and the work has also been inspected by the vigilance and Enforcement Department and was found to be satisfactory. The effluent results were also tested by the vigilance Department and they were found to be within the permissible limits. The allegation of the petitioner that due to construction of treatment plant and ponds, drainage water and sullage water is not flowing freely into the Pedda Tank was denied. It is stated that clogging of rain water in Viziangaram town is a regular problem since ten years and the main reason for the same is encroachments and silting up of drain near clock tower area. The municipality has removed several encroachments, however, all the encroachments could not be removed due to various problems. The Municipality could not take up desiltation of drain in clock tower area as the drain flows beneath the roads and it is an impossible task to desilt the drain under roads apart from financial constraints. The allegation of the petitioner that there was never such difficulty in regard to free flow of drain water and rain water, was denied. It is stated that the construction work

of treatment plant and ponds were entrusted to VUDA, and VUDA, in turn, invited tenders for the said work and completed the same. The allegation of the petitioner that due to closing of drainage, the water is clogging has been denied.

In view of what has been stated in the affidavits in reply filed by the respondents and in view of the fact that the averments made in the affidavits in reply were not controverted to by the petitioner by filing any affidavit in reply to the counters, despite copies of such counters being served on the petitioner in the month of October, 2004 in the writ petition filed as PIL., no directions can be issued. Further, the work is almost completed by the time of filing of this writ petition.

Learned counsel for the petitioner states that he has also filed a separate application seeking enquiry to be conducted into the entire affair in which public money is wasted on such a project.

Petitioner is a Councillor of the municipality. We are also informed that proceedings are pending before the Lok Ayukta and petitioner is stated to be a witness in those proceedings. Further the allegations made in the writ petition are the same as in those proceedings before the Lok Ayukta. As such, filing of this writ petition by a Councilor making serious allegations on the same issues, which were subject matter of the proceedings before the Lok Ayukta, cannot be entertained. The petition is not filed in public interest.

The writ petition is accordingly dismissed. No costs.

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DEVINDER GUPTA, CJ

Date: 3rd November, 2004

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C.V.RAMULU,J

Pnb

To

1 The Principal Secretary, Municipal Admn. Dept., Govt. of A.P.,Secretariat, Hyderabad.
2 The Chairman-cum-District Collector, Vizianagaram Town Development Committee,
Collectorate, Vizianagaram.
3 The Convenor-cum-Municipal Commissioner, Town Development Committee, Vizianagaram Municipality, Vizianagaram.
4 The Vice Chairman, Vizianagaram Town Development Committee, Visakhapatnam Urban Development Authority, Visakhapatnam.
5 The Executive Engineer, Vizianagaram Town Development Committee, Visakhapatnam Urban Development Authority, Visakhapatnam.

6. Two C.Cs. to the Government Pleader for G.A.D., High Court Buildings, Hyderabad. (OUT)

7. Two C.D. copies